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**OFFICE OF PETITIONS**

In re Application of :  
Ron Campbell Allen et al. :  
Application No. 09/583,958 :  
Filed: May 31,2000 :  
Attorney Docket No. AUS920000254US1 :

ON PETITION

This is a decision on the second renewed petition under 37 CFR 1.137(b), filed March 6, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the final Office action mailed November 30, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 28, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The renewed petition lacks item (3).

The petition decision mailed August 15, 2007 explained in detail how the petition filed October 24, 2006 failed to show to the satisfaction of the Director that the entire delay in filing the petition was unintentional. The renewed petition filed Sept 11, 2007 failed to address this issue and was dismissed in a decision mailed January 11, 2008.

The instant renewed petition includes a declaration from Martha Acosta concerning the delay in filing a response to the Office action and the delay in filing the initial petition. However, the declaration merely establishes that Ms. Acosta was not involved with the prosecution of the application at the time it went abandoned and does not specifically indicate when she became aware the application was abandoned.

In regard to the delay in filing a timely response to the final Office action mailed November 30, 2004, petitioner needs to make a statement to the fact that after a reasonable investigation into the facts and circumstances of the delay that petitioner has determined that the delay in filing the response was unintentional.

In regard to the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the Application, petitioner needs to make a statement to the fact that after a reasonable investigation into the facts and circumstances of the delay that petitioner has determined that the delay in filing an initial petition under 37 CFR 1.137(b) was unintentional.


Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.

  
Anthony Knight  
Supervisor  
Office of Petitions